

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

L.W. et al.,	)	
<i>By and through her parents and next friends,</i>	)	
<i>Samantha Williams and Brian Williams,</i>	)	
	)	
Plaintiffs,	)	No. 3:23-cv-00376
	)	
v.	)	
	)	
JONATHAN SKRMETTI et al.,	)	
	)	
Defendants.	)	
	)	

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**DEFENDANTS’ RESPONSE TO PLAINTIFFS’ MOTION  
FOR LEAVE TO PROCEED PSEUDONYMOUSLY**

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Of the nine plaintiffs, minors John Doe and Ryan Roe and each’s parent—Jane and James Doe and Rebecca Roe—have moved for leave to proceed pseudonymously. (D.E. 20, Plfs. Memo. at 178.)<sup>1</sup> Defendants do not oppose this motion, subject to certain conditions. Otherwise, Defendants object to the motion as improper.

**ARGUMENT**

“Litigating under a pseudonym is generally disfavored.” *Doe v. Mechanicsburg Sch. Bd. of Educ.*, 518 F. Supp. 3d 1024, 1026 (S.D. Ohio 2021) (citing Fed. R. Civ. P. 10(a) (“The title of the complaint must name all the parties.”)); *see Doe v. Porter*, 370 F.3d 558, 560 (6th Cir. 2004) (citing same). Only “[i]n exceptional cases,” *Doe v. Lee*, 599 F. Supp. 3d 701, 703 (M.D. Tenn. 2022), do courts ever allow it and, even then, only after showing that their “privacy interests

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<sup>1</sup> Pincites to record materials reference the “Page ID” numbers in the ECF file stamps.



substantially outweigh the presumption of open judicial proceedings,” *Porter*, 370 F.3d at 560. That weighing considers “(1) whether the plaintiffs seeking anonymity are suing to challenge governmental activity; (2) whether prosecution of the suit will compel the plaintiffs to disclose information of the utmost intimacy; (3) whether the litigation compels plaintiffs to disclose an intention to violate the law . . . ;<sup>2</sup> and (4) whether the plaintiffs are children.” *Porter*, 370 F.3d at 560 (internal quotations omitted). Defendants concede that these plaintiffs are “challeng[ing] governmental activity,” *id.*, by arguing that Tennessee’s new law regulating the performance of certain medical procedures on minors violates various federal laws, (*see generally* D.E. 1, Compl.) and that at least John Doe and Ryan Roe “are children,” *Porter*, 370 F.3d at 560; (Compl. at 26, 29).

As to “information of the utmost intimacy,” *Porter*, 370 F.3d at 560, these minor plaintiffs move “to protect their privacy” and “to control dissemination of information about their transgender status,” (Plfs.’ Memo. at 181). Their parents moved, too, because “[i]dentifying [John and Ryan’s] parents by name would effectively identify [John and Ryan] themselves.” (*Id.* at 182.) If the public discovered “[minor-plaintiffs] transgender status,” these plaintiffs urge that it is “eminently reasonable” that “[minor-plaintiffs] will be exposed to an increased risk of discrimination, harassment, and even violence”—the injury “they seek to prevent through [this] litigation.” (*Id.* at 186-87.)

Simultaneously, these plaintiffs offer to not “withhold their identity from Defendants or the Court where appropriate” and that “Defendants will know each Movant’s identity to the full extent necessary to defend the law being challenged.” (*Id.* at 188.) Considering that offer, and

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<sup>2</sup> Plaintiffs do not argue this as an applicable factor, (*see generally* Plfs.’ Mem.), and neither do Defendants here.



reserving all defenses, Defendants do not oppose these plaintiffs' motion *if* this Court, in granting it, also orders that:

- (1) These movant-plaintiffs shall identify themselves to Defendants immediately following the Court's order;
- (2) During this litigation, Defendants shall not publicly or privately disclose or identify for any purpose that these movant-plaintiffs are parties to this case, except "to the full extent necessary to defend the law being challenged," (*id.*); and
- (3) During this litigation, Plaintiffs shall not publicly disclose or identify that these movant-plaintiffs are parties to this case for any purpose, including publicity.

As to the first condition, Defendants reasonably need to know all plaintiffs' identities for discovery purposes, including for issuing third-party subpoenas without undermining those tools' value. As to the last two, such an order would reasonably preserve the anonymity these plaintiffs seek. Any staunch opposition from them on the last point casts doubt on their asserted "well-founded fears" of harassment that publicity could bring and, thus, also questions the need for this motion at all. (*Id.* at 186.)

### CONCLUSION

For the foregoing reasons, this Court should only grant these plaintiffs' motion if the Court also orders that (1) these movant-plaintiffs shall identify themselves to Defendants immediately upon this Court entering the order; (2) during this litigation, Defendants shall not publicly or privately disclose or identify for any purpose that these movant-plaintiffs are parties to this case, except to the full extent necessary to defend the law being challenged; and (3) during this litigation, Plaintiffs shall not publicly disclose or identify that these movant-plaintiffs are parties to this case for any reason, including publicity. Otherwise, this Court should deny their motion as unnecessary.



Dated: May 2, 2023

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### **CERTIFICATE OF SERVICE**

I hereby certify that on May 2, 2023, the undersigned filed the foregoing document via this Court's electronic filing system, which sent notice of such filing to the following counsel of record:

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